

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LENWOOD STOKES,	§
	§ No. 716, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 1001013111
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 6, 2011
Decided: July 20, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 20th day of July 2011, upon consideration of the appellant's brief pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Lenwood Stokes, was found guilty by a Superior Court jury of Assault in the Second Degree. He was sentenced to 5 years of Level V incarceration, to be suspended for 2 years of Level III probation. This is Stokes' direct appeal.

(2) Stokes' counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Stokes' counsel asserts that, based upon a complete and careful examination of the record and the law, there are no

arguably appealable issues. By letter, Stokes' attorney informed Stokes of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Stokes also was informed of his right to supplement his attorney's presentation. Stokes has not raised any issues for this Court's consideration. The State has responded to the position taken by Stokes' counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and b) this Court must conduct its own review of the record in order to determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.¹

(4) This Court has reviewed the record carefully and has concluded that Stokes' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Stokes' counsel has made a conscientious effort to examine the record and the law and has properly determined that Stokes could not raise a meritorious claim in this appeal.

¹ *Person v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Carolyn Berger
Justice